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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ALI ISRAR and IVAN POUPYREV

Appeal 2014-009376
Application 12/976,193
Technology Center 2600

Before CARL W. WHITEHEAD JR., HUNG H. BUI and ADAM J. PYONIN, *Administrative Patent Judges*.

WHITEHEAD JR., *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

Appellants have filed a Request for Rehearing under 37 C.F.R. § 41.52 on September 29, 2016 ("Request") from our Decision on Appeal mailed July 29, 2016 ("Decision"), wherein we affirmed the anticipation rejection of claim 1 and the obviousness rejection of claims 2 and 14. *See* Decision 6–7.

Appellants contend:

> [T]he Examiner and the Board have failed to address the actual claim language used by Applicant. Applicant pointed out that the term "virtual stimulation devices," which is explicitly claimed, was nowhere to be found in Zeleny. Appeal Brief at p. 14; Claim 1 (emphasis added). Thus, Applicant respectfully submits that the argument that "virtual simulation devices," Decision at p. 4, is not equivalent to Applicant's claimed "virtual

> stimulation devices" has been misapprehended by the Board and has been left unaddressed. The Office and the Board have offered no explanation as to why the two different terms are equated.
>
> Applicant, on the other hand, provided an explanation as to why the two terms were different, i.e., emphasizing that Applicant's specification teaches that a proper understanding of "one or more additional virtual stimulation devices perceivable by a user" is a technique by which a "virtual stimulation device" is generated by a fewer number of "actual stimulation devices." Claim 1; *see also* Appeal Brief, pp. 14–15.

Request 2–3.

The Examiner finds that Zeleny teaches a plurality of **simulation** devices configured to generate a sensation of additional **simulation** devices with one or more tactile sensations, by using a plurality of **stimulation** devices and one or more additional virtual **stimulation devices**. Final Rejection 3 (citing Zeleny, Figures 2–7; paragraphs 38–43, 46). The Examiner further finds Zeleny's

> micro-step motor 320 generates the sensation of human hand and fingers perceivable by the user in remote touch event; where the human hand and fingers read on 'virtual simulation devices'. Thus Zeleny discloses "controlling one or more characteristics of a plurality of actual stimulation devices configured to generate a sensation of one or more additional virtual stimulation devices perceivable by a user". Further, the reaching out and touching in virtual reality gaming and massage and healing arts of ¶s 43–44 reads on "generating one or more tactile sensations using the plurality of actual stimulation devices and the one or more additional virtual stimulation devices; and controlling the one or more tactile sensations such that the one or more tactile sensations are perceivable by a user at a plurality of positions."

Answer 2–3.

"[Appellants] respectfully submit[] that the use of the terms 'virtual reality' and 'simulation' (not stimulation) by Zeleny are examples of

application environments or use cases, which are not at all the same as the sensory effect or tactile sensation experienced or perceivable by generating "one or more virtual stimulation devices." Request 5. We agree with Appellants that the two *terms* are different, but in the case of Zeleny, the simulation and stimulation devices are not mutually exclusive. Zeleny discloses that the employment of "sense of touch" or "haptics" has been missing from virtual reality systems and provides a method of using micro-step motors to provide haptic feedback to a subject. Zeleny, paragraphs 16, 17. We do not find Appellants' arguments persuasive because although Zeleny teaches virtual reality **simulation**, Zeleny also employs **stimulation** devices (such as the micro-step motors) to generate a sensation of virtual **stimulation** devices (such as the sensation of human hands or fingers) as recited in claim 1. *See* Answer Answer 2–3. Therefore, we do not agree with Appellants' contention that we overlooked claim 1's requirement of additional virtual stimulation devices as being non-equivalent to the disclosure of Zeleny.

Appellants argue in regard to claims 2 and 14 that the Examiner "provided no plausible reason as to how Zeleny taught control of 'frequency, duration, and intensity' to 'generate a sensation of one or more additional virtual stimulation devices'" as required by both claims 2 and 14. Request 6 (citing Reply Brief 18). We find Appellants' argument unpersuasive for the reasons stated in the Decision. *See* Decision 4–5.

Appellants' Request for Rehearing has been granted to the extent that our decision has been reconsidered, but such request is denied with respect to making any modifications to the decision.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136 (a)(1)(iv).

REHEARING DENIED